

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Partitioning, Disaggregation, and)	WT Docket No. 19-38
Leasing of Spectrum)	

**REPLY COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these Reply Comments for consideration by the Federal Communications Commission (the “Commission”) pertaining to possible methods of increasing incentives for large carriers to partition, disaggregate or lease spectrum to small and rural carriers, as required by the MOBILE NOW Act (“Act”).² The record reflects nearly unanimous support for establishing rules that would incent large license holders to partition, disaggregate or lease unused spectrum to small, rural carriers and several commenters pointed to rules the Commission already has in place to help ensure

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

² *Partitioning, Disaggregation, and Leasing of Spectrum*, WT Docket No. 19-38, Notice of Proposed Rulemaking (rel. March 15, 2019) (“Notice”); MOBILE NOW Act, Pub. L. No. 115-141, Division P, Title VI, § 601 *et seq.* (2018).

spectrum is not warehoused, which could be used as a basis for creating similar rules in response to the instant proceeding.³

I. A DATABASE COULD BE A USEFUL TOOL BUT THAT ALONE WILL NOT ACT AS AN INCENTIVE FOR LARGE CARRIERS TO SELL SPECTRUM TO SMALL, RURAL CARRIERS

Commenters proposed a number of methods of creating incentives for large carriers to partition, disaggregate or lease unused portions of their spectrum to small, rural carriers interested in serving the remaining areas. NTCA encourages the Commission to utilize any and all methods to ensure unused spectrum does not lay fallow or is used solely for the purpose of swapping spectrum with other large carriers when needed to gain Commission consent to acquire new licenses.⁴

One solution recommended by several commenters was for the Commission to establish a database that would allow licensees to enter locations or spectrum where the licensee would be willing to partition, disaggregate or lease certain areas.⁵ The database would ideally make it easier for potential buyers/lessees to identify available spectrum,⁶ an issue raised by several commenters.⁷ While NTCA agrees that a database could be helpful in identifying available

³ See, e.g., Comments of Federated Wireless, Inc., WT Docket No. 19-38, at 4 (filed June 3, 2019) (noting that the Commission implemented a database of available spectrum in the Citizens Band Radio Service) (“Federated Wireless Comments”).

⁴ See Comments of Google LLC, WT Docket No. 19-38, at 3 (filed June 3, 2019) (citing 2013 study finding that “89% of MHz/POPs assigned or transferred ... went to major wireless providers or between non-nationwide providers”) (“Google Comments”).

⁵ *Id.* See also, Comments of Open Technology Institute at New America and Public Knowledge, WT Docket No. 19-38, at 4 (filed June 3, 2019) (“OTI Comments”).

⁶ See OTI Comments at 6 (noting that potential buyers have difficulty locating information about available spectrum).

⁷ See Federated Wireless Comments at 2. See also, OTI Comments at 7.

spectrum, licensees still must have an incentive to sell or lease unused portions of their spectrum, especially to small, rural providers. CTIA, by contrast, asserted that licensees already have incentives to engage in secondary market transactions with small or rural providers in areas where they “are unable, or find it economically infeasible, to provide service.”⁸ If this were often the case, however, the Commission would not be undertaking the instant proceeding.

One method of providing an incentive for large carriers to partition or disaggregate unused portions of their spectrum to small, rural carriers, as suggested by Google, would be to grant large carriers who partition or disaggregate a portion of their licensed area to small, rural carriers a limited extension of time in which to meet the applicable buildout requirements.⁹ As CTIA noted, the extension should be limited to one year from the final construction deadline and carriers would have to request the extension no later than six months prior to the construction deadline.¹⁰ Furthermore, to ensure the disaggregated or partitioned licenses are placed in the hands of small, rural carriers who have the ability and incentive to build out areas historically left unserved by the larger providers, NTCA recommends the extension apply only in instances where the licensee demonstrates it has entered into an agreement to partition or disaggregate a portion of the licensed authorization to an entity that qualifies for a rural service provider bidding credit pursuant to the Commission’s rules.¹¹

⁸ Comments of CTIA, WT Docket No. 19-38, at 6 (filed June 3, 2019) (“CTIA Comments”).

⁹ See Google Comments at 16.

¹⁰ See CTIA Comments at 11.

¹¹ See 47 C.F.R. § 1.2110(f)(4).

II. THE COMMISSION’S RULES MUST ALSO CREATE OPPORTUNITIES FOR SMALL, RURAL PROVIDERS TO ACQUIRE PRIMARY SPECTRUM

While creating rules that will provide more opportunities for small, rural carriers to gain access to secondary spectrum is helpful and necessary, access to spectrum on a primary basis remains at once critical and at the same time a thorny issue to resolve. Therefore, NTCA continues to encourage the Commission to develop rules that will spur opportunities for small, rural carriers to acquire both primary *and* secondary spectrum.¹² NRECA likewise recommended the Commission offer a bidding credit to rural service providers, such as that offered in the 600 MHz auction.¹³ The Rural Wireless Association also emphasized the need to “mak[e] it easier for small, rural carriers to successfully bid on spectrum at auction without the need to wait years to lease or purchase this very same spectrum....”¹⁴

In an attempt to place more spectrum in the hands of small, rural carriers, several commenters encouraged the Commission to implement “use it or share it” rules, whereby licensees would be required “to provide usage information for their authorized spectrum to databases,” so that another provider could utilize the listed spectrum for as long as such spectrum is not needed by the licensee.¹⁵ Google contends a “use it or share it” approach provides more of an incentive for large carriers to enter into usage agreements with small, rural carriers than “use it or lose it” rules because “if a licensee does not see an economic reason to build out a portion of

¹² Comments of NTCA, WT Docket No. 19-38 (filed June 3, 2019).

¹³ Comments of the National Rural Electric Cooperative Ass’n, WT Docket No. 19-38, at 4-5 (filed June 3, 2019).

¹⁴ *See* Comments of the Rural Wireless Ass’n, Inc., WT Docket No. 19-38, at 4 (filed June 3, 2019).

¹⁵ Google Comments at 18. *See also*, OTI Comments at 3.

its license area, ... the threat of losing that portion ... would have little impact on that licensee's behavior.”¹⁶ While Google's assessment of “use it or lose it” rules creating little incentive for large carriers to sell or lease portions of their spectrum to small, rural providers may be accurate, such rules would still prevent large carriers from warehousing the spectrum while also making such spectrum available to small, rural carriers who would use the spectrum to provide valuable services to their communities. Furthermore, as WISPA noted, “use it or share it” rules provide “only a basis for interim unlicensed use rather than a more reliable, exclusive licensed use for a definitive period.”¹⁷

Rural communities need and deserve reliable service that they can depend on indefinitely – not temporarily so that the licensee will gain the benefit of reduced regulatory fees or additional time to build out large markets.¹⁸ Accordingly, NTCA continues to encourage the Commission to adopt “use it or lose it” rules when spectrum is licensed according to large geographic areas to large carriers. This is necessary to ensure rural communities do not risk losing leased service and providers know they can safely invest in equipment necessary to construct and operate the service – an expense few would take on if they risk having to “return” the spectrum in a few years or less. To ensure such rules would not end up harming the very entities and consumers they were intended to help, *i.e.*, the unserved and underserved rural communities, NTCA recommends further that any carriers who received a rural service provider

¹⁶ Google Comments at 19.

¹⁷ Comments of the Wireless Internet Service Providers Ass'n (“WISPA”), WT Docket No. 19-38, at 3 (filed June 3, 2019).

¹⁸ See Google Comments at 16.

bidding credit when awarded their license be exempt from a “use it or lose it” condition on their license.

III. CONCLUSION

As Congress recognized in establishing the Act, while the Commission has undertaken steps to make it easier for large carriers to sell or lease portions of their spectrum to other entities, more needs to be done to incentivize these carriers to sell spectrum to small, rural carriers. The Commission also needs to ensure small, rural carriers have a meaningful opportunity to acquire spectrum on a primary basis through spectrum auctions, as providers – and customers who rely on them – cannot build a business on secondary spectrum alone. Consequently, NTCA recommends the Commission consider the recommendations raised in this proceeding and adopt rules that would place more spectrum in the hands of small, rural carriers, many of whom have already demonstrated their commitment to providing robust, reliable services to their communities.

Respectfully submitted,



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